



MEMORANDUM

TO: Mayor and Council
FROM: Jannette Goodall, City Clerk
DATE: December 12, 2017
SUBJECT: Candidacy eligibility

Mayor and Council,

You may have heard or read about a potential candidate for the November 2018 City Council election, Mr. Lewis Conway Jr. in District 1, who has made statements in various news sources that, although he is a convicted felon, his voting rights have been restored and therefore he asserts that he is eligible to be a candidate. We have discussed this question with the Law Department and the Secretary of State's Office, and I wanted to share the information with you in the event you receive questions.

According to the advice received, the requirements under Texas law for discharging disabilities associated with being a convicted felon differ for voting and candidacy. Section 141.001(a)(4) of the Texas Election Code provides that to be eligible to be a candidate for, or elected or appointed to, a public elective office, a person must have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. This means there is no automatic restoration of the right to be a candidate, as there is for voting purposes, after a full discharge of one's sentence (including incarceration, probation, and parole requirements). Absent a pardon, the candidate must have obtained a judicial release from his disabilities in order to run for any office to which this section applies. This section applies to city council elections.

The application for a place on the ballot requires that each candidate swear an oath stating that he/she has not been finally convicted of a felony for which he/she has not been pardoned or had full rights of citizenship restored by other official action. According to the Secretary of State's Office, my role as the filing authority is to review what is on the face of the application. Unless presented with a public record establishing ineligibility, the filing authority relies on the sworn statement on the application. In this instance, while the individual has made public statements, those public statements are not public records and do not foreclose the possibility that the candidate has received a court order dismissing or overturning the felony conviction.